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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,404	02/12/2004	Frederick James Diggle III	030614	5793

49584 7590 03/30/2006

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EXAMINER

WATSON, ROBERT C

ART UNIT	PAPER NUMBER
3723	

DATE MAILED: 03/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/777,404	Applicant(s) DIGGLE ET AL.	
	Examiner Robert C. Watson	Art Unit 3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final. *f*
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 and 21-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17, 21-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3/15/06</u> . | 6) <input type="checkbox"/> Other: _____ |

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7-8, 10-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Katz.

Katz shows a body with a plurality of apertures with a plurality of elongate recesses, one of the elongate recesses being positioned between two consecutive apertures. In Katz the scalloping between the apertures is considered to be “elongate” since “elongate” is a relative term. This scalloping may also be termed “crenellated recesses”. Figure 8 shows a releasable attachment member at the last aperture. Statements such as sized to be received in a raceway is believed to be met by the size of the Katz device since raceways or elongated tubular members are available in an infinite size of diameters and a tubular member could be found to be larger than the Katz device. The Katz device is seen to be capable of performing all of the intended use recited in the claims; ie., Katz has the “means” thereon to perform the function recited in the claims.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6 and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Katz in view of Martin et al.

Martin et al teaches that an attachment device may have releasable hook and loop attachment means between the body and the object being attached.

To provide in Katz a releasable hook and loop attachment means between the body and the object to be attached would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of Martin et al. One of ordinary skill in the art would have been motivated to do this in order to provide a convenient to use releasable attachment means.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Woelkers in view of Zimmer.

Zimmer teaches that an object may be releasably secured to the aperture by , tape (see 40 in Zimmer).

To releasably secure an object to the aperture(s) in Katz would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of Zimmer. One of ordinary skill in the art would have been motivated to do this in order to provide a convenient means of attaching an object to the apertured body.

Applicant's remarks that the various applications numbers listed on the POL-1449 be initialed by the examiner has been considered. However, these items will not be initialed by the examiner because applicant has not complied with

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37CFR1.98(a)(2)(iii) since applicant has not provided the office a copy of the (1) the specification, (2) claims, and (3) drawings of the application(s).

It is noted that applicant states that Katz does not show a body with elongated recesses. Applicant's position is vague as to what claim structure applicant thinks is not shown in Katz. If it is applicant's position that the Katz recesses are not "elongate" then applicant is in error since "elongate" is a relative term. It is the examiner's position that the scalloping (recesses) between the apertures in Katz is "elongate."

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert C. Watson whose telephone number is 571 272-4498. The examiner can normally be reached on Mon. - Thurs. , 5:30am - 4:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail III can be reached on 571 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

rcw



ROBERT C. WATSON
PRIMARY EXAMINER